



STATE OF NEW YORK  
DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Antonia C. Novello, M.D., M.P.H.  
Commissioner

Dennis P. Whalen  
Executive Deputy Commissioner

**PUBLIC**

January 31, 2000

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Robert Bogan, Esq.  
Paul Maher, Esq.  
NYS Department of Health  
Hedley Park Place  
433 River Street – Fourth Floor  
Troy, New York 12180

Abayomi Orafidiya, M.D.  
11 Rella Drive  
New York, New York 10956

**RE: In the Matter of Abayomi Orafidiya, M.D.**

Dear Parties:

Enclosed please find the Determination and Order (No. 00-27) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt or seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either certified mail or in person to:

Office of Professional Medical Conduct  
New York State Department of Health  
Hedley Park Place  
433 River Street - Fourth Floor  
Troy, New York 12180

If your license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, you shall submit an affidavit to that effect. If subsequently you locate the requested items, they must then be delivered to the Office of Professional Medical Conduct in the manner noted above.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

Request for review of the Committee's determination by the Administrative Review Board stays penalties other than suspension or revocation until final determination by that Board. Summary orders are not stayed by Administrative Review Board reviews.

All notices of review must be served, by certified mail, upon the Administrative Review Board and the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge  
New York State Department of Health  
Bureau of Adjudication  
Hedley Park Place  
433 River Street, Fifth Floor  
Troy, New York 12180

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Mr. Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's  
Determination and Order.

Sincerely,

A handwritten signature in black ink, appearing to read "Tyrone T. Butler". The signature is written in a cursive style with a large initial 'T'.

Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:nm  
Enclosure

STATE OF NEW YORK : DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

COPY

DETERMINATION

AND

ORDER

OPMC-00-27

IN THE MATTER  
OF  
ABAYOMI ORAFIDIYA, M.D.

A Notice of Referral Proceedings and Statement of Charges, both dated November 24, 1999 were served upon the Respondent, **ABAYOMI ORAFIDIYA, M.D.**

**TERESA BRIGGS, M.D., M.P.H.**, Chairperson, **JAMES ROBERSON, M.D.** and **TRENA DEFRANCO**, duly designated members of the State Board for Professional Medical Conduct, served as the Hearing Committee in this matter pursuant to Section 230(10)(e) of the Public Health Law. **MICHAEL P. MCDERMOTT, ESQ.**, Administrative Law Judge, served as the Administrative Officer.

A hearing was held on January 19, 2000, at the Offices of the New York State Department of Health, Hedley Park Place, 433 River Street, Troy, New York. The Department appeared by **HENRY M. GREENBERG, ESQ.**, General Counsel, by **ROBERT BOGAN, ESQ.** and **PAUL ROBERT MAHER, ESQ.**, of Counsel. The Respondent failed to appear, but did submit a written statement which has been admitted into evidence as Respondent's Exhibit A.

Evidence was received and transcripts of these were made.

After consideration of the entire record, the Hearing Committee issues this Determination and Order.

## **STATEMENT OF CASE**

This case was brought pursuant to Public Health Law Section 230(10)(p). The statute provides for an expedited hearing where a licensee is charged solely with a violation of Education Law Section 6530(9). In such case, a licensee is charged with misconduct based upon a prior criminal conviction in New York or another jurisdiction, or upon a prior administrative adjudication regarding conduct which would amount to professional misconduct, if committed in New York. The scope of an expedited hearing is limited to a determination of the nature and severity of the penalty to be imposed upon the licensee.

In the instant case, the Respondent is charged with professional misconduct pursuant to Education Law Section 6530(a)(i). A copy of the Notice of Referral Proceeding and Statement of Charges is attached to this Determination and Order as Appendix I.

## **FINDINGS OF FACT**

The following Findings of Fact were made after a review of the entire record in this matter. Numbers in parenthesis refer to transcript page number or exhibits. These citations represent evidence found persuasive by the Hearing Committee in arriving at a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the cited evidence. All Hearing Committee findings were unanimous unless otherwise stated.

1. **ABAYOMI ORAFIDIYA, M.D.**, the Respondent, was authorized to practice medicine in New York state on October 22, 1984, by the issuance of licensee number 160583 by the New York State Education Department. (Pet's. Ex. 3)

2. On June 10, 1999, in the Nyack Justice Court, Rockland County, New York, the Respondent was found guilty of Criminal Possession of a Forged Instrument in the third degree, a Class A misdemeanor, in violation of §170.20 of the New York Penal Law and was sentenced to three years probation and to pay a \$95.00 surcharge. (Pet's. Ex. 4)

**VOTE OF THE HEARING COMMITTEE**  
**(All votes were unanimous unless other specified)**

**SPECIFICATION**

Respondent violated New York Education Law §6530(9)(a)(i) by reason of having been convicted of an act constituting a crime under New York state law.

VOTE: SUSTAINED (3-0)

**HEARING COMMITTEE DETERMINATION**

The evidence in this case indicates that on June 10, 1999, in the Nyack Justice Court, Rockland, New York, the Respondent was convicted of criminal possession of a forged instrument in the third degree, a Class A misdemeanor, in that he possessed a forged prescription for Stadol.

A deposition from the alleged prescriber, Dr. Sabhapathi Anasuya stated, "On December 2, 1998, I examined a prescription bearing my name as the purported maker and signator, written for Jimmy Williams on September 23, 1998, prescribing the drug Stadol, for which a prescription is required by law. This prescription bears the DEA # BA3862578, which is assigned to me. I did not write or sign this prescription nor did I give any person, including Abayomi Orifidiya permission or authority to make, use, or possess such a prescription, or to sign my name or utilize my DEA #. The signature on this prescription which purports to my signature is not my signature, but is instead a forgery of my signature. Additionally, I have never had a prescription pad bearing the address of 303 North Street, White Plains, NY 10905." This statement clearly indicates that the Respondent was engaged in a scheme to obtain drugs illegally.

By his own account, the Respondent is an impaired physician who has had repeated problem with addiction and has not responded to treatment.

The Hearing Committee determines unanimously, (3-0), that the Respondent's license to practice medicine in the state of New York should be REVOKED.

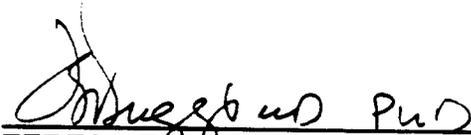
ORDER

IT IS HEREBY ORDERED THAT:

1. The Respondent's licensee to practice medicine in the state of New York is hereby REVOKED.
2. The ORDER shall be effective upon service on the Respondent or the Respondent's attorney by personal service or by certified or registered mail.

DATED: Albany, New York

Jan 24, 2000

  
TERESA BRIGGS, M.D., M.P.H., Chairperson  
(Ph)

JAMES ROBERSON, M.D.  
TRENA DEFRANCO

**APPENDIX ONE**

EXHIBIT

1/19/00 RD

STATE OF NEW YORK : DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

IN THE MATTER  
OF  
ABAYOMI ORAFIDIYA, M.D.

NOTICE  
OF  
REFERRAL  
PROCEEDING

TO: ABAYOMI ORAFIDIYA, M.D.  
11 Rella Drive  
New York City, NY 10956

PLEASE TAKE NOTICE THAT:

An adjudicatory proceeding will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230(10)(p) and N.Y. State Admin. Proc. Act Sections 301-307 and 401. The proceeding will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct (Committee) on the 19th day of January, 2000 at 10:00 in the forenoon of that day at the Hedley Park Place, 5th Floor, 433 River Street, Troy, New York 12180.

At the proceeding, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the proceeding will be made and the witnesses at the proceeding will be sworn and examined.

You may appear in person at the proceeding and may be represented by counsel. You may produce evidence or sworn testimony on your behalf. Such evidence or sworn testimony shall be strictly limited to evidence and testimony relating to the nature and severity of the penalty to be imposed upon the licensee. Where the charges are based on the conviction of state law crimes in other jurisdictions, evidence may be offered which would show that the conviction would not be a crime in New York State. The Committee also may limit the number of witnesses whose testimony will be received, as well as the length of time any witness will be permitted to testify.

If you intend to present sworn testimony, the number of witnesses and an estimate of the time necessary for their direct examination must be submitted to the New York State Department of Health, Division of Legal Affairs, Bureau of Adjudication, Hedley Park Place, 5th Floor, 433 River Street, Troy, New York 12180, ATTENTION: HON. TYRONE BUTLER, DIRECTOR, BUREAU OF ADJUDICATION, (henceforth "Bureau of Adjudication") as well as the Department of Health attorney indicated below, on or before January 10, 2000.

Pursuant to the provisions of N.Y. Public Health Law §230(10)(p), you shall file a written answer to each of the Charges and Allegations in the Statement of Charges no later than ten days prior to the hearing. Any Charge or Allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such an answer. The answer shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health whose name appears below. You may file a brief and affidavits with the Committee. Six copies of all such papers you wish to submit must be filed with the Bureau of Adjudication at the address indicated above on or before January 10, 2000 and a copy of all papers must be served on the same date on the Department of Health attorney indicated below. Pursuant to Section 301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person.

The proceeding may be held whether or not you appear. Please note that requests for adjournments must be made in writing to the Bureau of Adjudication, at the address indicated above, with a copy of the request to the attorney for the Department of Health, whose name appears below, at least five days prior to the scheduled date of the proceeding. Adjournment requests are not routinely granted. Claims of court engagement will require detailed affidavits of actual engagement. Claims of illness will require medical documentation. Failure to obtain an attorney within a reasonable

period of time prior to the proceeding will not be grounds for an adjournment.

The Committee will make a written report of its findings, conclusions as to guilt, and a determination. Such determination may be reviewed by the administrative review board for professional medical conduct.

SINCE THESE PROCEEDINGS MAY RESULT IN A  
DETERMINATION THAT SUSPENDS OR REVOKES YOUR  
LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE  
AND/OR IMPOSES A FINE FOR EACH OFFENSE CHARGED,  
YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT  
YOU IN THIS MATTER.

DATED: Albany, New York  
*November 24*, 1999



PETER D. VAN BUREN  
Deputy Counsel  
Bureau of Professional  
Medical Conduct

Inquiries should be addressed to:

Robert Bogan  
Assistant Counsel  
Office of Professional Medical Conduct  
433 River Street  
Suite 303  
Troy, NY 12180  
(518)402-0820

STATE OF NEW YORK : DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

-----X

IN THE MATTER  
OF  
ABAYOMI ORAFIDIYA, M.D.

STATEMENT  
OF  
CHARGES

-----X

ABAYOMI ORAFIDIYA, M.D., the Respondent, was authorized to practice medicine in New York state on October 22, 1984, by the issuance of license number 160583 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

A. On or about June 10, 1999, in the Nyack Justice Court, Rockland County, New York, Respondent was found guilty of Criminal possession of a forged instrument in the third degree, in violation of §170.20 of the New York Penal Law and was sentenced to three years probation and to pay a \$95.00 surcharge.

**SPECIFICATION**

Respondent violated New York Education Law §6530(9)(a)(i) by reason of having been convicted of an act constituting a crime under New York state law in that the Petitioner charges:

1. The facts in paragraphs A.

DATED: *Nov. 24*, 1999  
Albany, New York

  
PETER D. VAN BUREN  
Deputy Counsel  
Bureau of Professional  
Medical Conduct